

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWG Docket No. 10-0131
)
Peter Mudge)
)
Petitioner)

Final Decision and Order

This matter is before me upon the request of the Petitioner, Peter Mudge, for a hearing in response to efforts of Respondent to institute a federal administrative wage garnishment against him. On March 18, 2010, I issued a Pre-hearing Order requiring the parties to exchange information concerning the amount of the debt.

I conducted a telephone hearing at the scheduled time on May 17, 2010. USDA Rural Development Agency (RD) was represented by Gene Elkin, Esq., and Mary Kimball who testified on behalf of the RD agency.

Petitioner was present and was self represented.

The witnesses were sworn in. RD had filed a copy of a Narrative along with exhibits RX-1 through RX-6 on April 23, 2010 with the OALJ Hearing Clerk and certified that it mailed a copy of the same to Petitioner. Mr. Mudge stated that he received RD's Exhibits and witness list.

Petitioner submitted a two page typed Narrative and PX-1 (7 pages) PX-2 (1 page) and PX-3 (4 pages).

Petitioner owes \$22,695.93 on the USDA RD loan as of today, and in addition, potential fees of \$6,354.76 due the US Treasury pursuant to the terms of the Promissory Note.

Findings of Fact

1. On May 3, 1985, Petitioner, Peter Mudge and Mindy Mudge obtained a USDA RD home mortgage loan for property located at # Banta Place, Stamford, NY 121**.¹ Petitioner was co-signor to a promissory note for \$28,000. RX-1 @ p. 4 of 4.

2. On November 25, 1998, Petitioner was sent a Notice of Default on the loan by certified and regular mail to his last known address. RX-3 @ p. 3 of 3. I find that Petitioner's Exhibit 1 (relating to the non-listing in his credit report of the RD debt) as not dispositive as to the extinguishment of his debt. I also find that he had a duty to properly give his creditors (including RD) his most current mailing address.

3. The property was sold in a "short sale" on June 25, 1999 for \$16,500. At the time of the short sale, the balance due on the note was \$36,240.71. Narrative, RX-4.

4. After the sale proceeds were posted, the balance remaining was \$22,695.93. Narrative, RX-4, RX-6.

5. The potential fees due U.S. Treasury pursuant to the Loan Agreement are \$6,354.86. Narrative, RX-6.

6. Petitioner is jointly and severally liable on the debt under the terms of the Promissory Note.

7. Petitioner stated that he is currently employed for more than one year, however he raised issues of financial hardship. Petitioner's testimony. PX-3.

Conclusions of Law

1. Petitioner Peter Mudge is indebted to USDA's Rural Development program in the

¹Complete address maintained in USDA records.

amount of \$22,695.93.

2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$6,354.76.

3. All procedural requirements for administrative wage garnishment set forth in 31 C.F.R. ¶ 285.11 have been met.

4. Petitioner is under a duty to inform USDA's Rural Development of his current address, employment circumstances, and living expenses.

5. A Financial Hardship Calculation² has been prepared with the result that the administrative wage garnishment by RD against this debtor is suspended at this time.

Order

The requirements of 31 C.F.R. ¶ 288.11(i) & (j) have been met. The Administrative Wage Garnishment against this debtor is suspended at this time.

Copies of this Decision and Order shall be served upon the parties by the Hearing Clerk's office.

JAMES P. HURT
Hearing Official

June 8, 2010

² The Financial Hardship Calculation is not posted on the OALJ Website.